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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,534	01/16/2001	Hiroshi Ishizuka	1081.1103 (JDH)	2120
21171	7590	11/19/2007	EXAMINER	
STAAS & HALSEY LLP			GART, MATTHEW S	
SUITE 700			ART UNIT	
1201 NEW YORK AVENUE, N.W.			PAPER NUMBER	
WASHINGTON, DC 20005			3625	
			MAIL DATE	DELIVERY MODE
			11/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/759,534

Applicant(s)

ISHIZUKA ET AL.

Examiner

Matthew S. Gart

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3,4,12,14,16,20,22-26,28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration. ~
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3,4,12,14,16,20,22-26,28,29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/1/2007 has been entered.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 3-4, 12, 14, 16, 20, 22-26 and 28-29 are rejected under 35**

**U.S.C. 102(e) as being anticipated by Ruffin (U.S. Patent No. 6,249,769).**

Referring to claim 3. McCann discloses a commodity retrieval method in a commodity sale transaction via a network, the method comprising:

- Storing a table indicative of correlation between objects of use (Ruffin: Fig. 4, "404a") and commodities (Ruffin: Fig. 4, "404d") having specifications (Ruffin: Fig. 4, "404b") meeting said objects of use, said correlation being stored prior to a request by a user;
- Displaying a first option indicating the objects of use identifying specific operations implemented by the commodities on a terminal of the user (Ruffin: column 13, line 26 through column 14, line 49) together with a second option listing the specifications of said commodities (Ruffin: column 14, lines 50-59);
- Acquiring, from said table stored prior to said request of the user specification information corresponding to an object of use selected by the user in said

request using the first option, said acquiring being subsequent to selection of the object of use among said objects of use displayed via the first option (Ruffin: column 13, line 26 through column 14, line 59);

- Retrieving a commodity based on the acquired specification information as a retrieval condition (Ruffin: column 14, line 60 through column 15, line 10); and
- Displaying, on the terminal, information of the commodity having the specification information corresponding to the selected object of use without requiring the user's knowledge of the specification information when selecting said object of user, where said information of the commodity is retrievable using said specification information of the commodity as the retrieval condition responsive to a direct selection of the specification information from among the specification displayed via said second option (Ruffin: column 18, lines 29-43).

The Examiner notes, even though Ruffin anticipates the claims as set forth above, the contents of the table is only found in the nonfunctional descriptive material and does not alter how the method is carried out (i.e., it does not matter what specific data is stored in said table). Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

The Examiner notes, even though Ruffin anticipates the claims as set forth above, the specific information displayed does not alter how the method is carried out and therefore this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Referring to claim 4. Ruffin further discloses a method wherein the network is Internet (Ruffin: "Finally, the CPU may be further coupled either directly or remotely to other peripheral devices 306 which may include additional computer systems via local or wide area networks and the Internet and which may further include such peripheral devices as printers, facsimile machines, scanners, network connection devices, tape drive units, etc.").

Referring to claim 12. Claim 12 is rejected under the same rationale as set forth above in claims 3-4.

Referring to claim 14. Claim 14 is rejected under the same rationale as set forth above in claims 3-4.

Referring to claim 16. Claim 16 is rejected under the same rationale as set forth above in claims 3.

Referring to claim 20. Claim 20 is rejected under the same rationale as set forth above in claims 3.

Referring to claim 22. Claim 22 is rejected under the same rationale as set forth above in claims 3.

Referring to claim 23. Claim 23 is rejected under the same rationale as set forth above in claims 3.

Referring to claim 24. Claim 24 is rejected under the same rationale as set forth above in claims 3.

Referring to claim 25. Claim 25 is rejected under the same rationale as set forth above in claims 3.

Referring to claim 26. Claim 26 is rejected under the same rationale as set forth above in claims 3.

Referring to claim 28. Claim 28 is rejected under the same rationale as set forth above in claims 3.

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Referring to claim 29. Claim 29 is rejected under the same rationale as set forth above in claims 3.

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***Response to Arguments***

Applicant's arguments with respect to all the pending claims have been considered but are moot in view of the new ground(s) of rejection.


**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-272-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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